

2011 DRAFTING REQUEST

Bill

Received: 01/11/2012

Received By: phurley

Wanted: As time permits

Companion to LRB:

For: Donna Seidel (608) 266-0654

By/Representing: Chris KcKinny

May Contact:

Drafter: phurley

Subject: Courts - courts/judges/commsrs

Addl. Drafters:

Extra Copies:

Submit via email: YES

Requester's email: Rep.Seidel@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Disqualification of a judge or a justice

Instructions:

Per attached e mails, 1/10 and 1/11. After a t/c with Chris, decided to pursue this as a recusal issue. Require recusal if counsel has had a contingency fee agreement with any counsel involved in case.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkuesel 01/11/2012			_____			
/1	phurley 01/12/2012	mduchek 01/12/2012	jmurphy 01/12/2012	_____	sbasford 01/12/2012	ggodwin 01/12/2012	

FE Sent For:

None

<END>

2011 DRAFTING REQUEST

Bill

Received: **01/11/2012**

Received By: **phurley**

Wanted: **As time permits**

Companion to LRB:

For: **Donna Seidel (608) 266-0654**

By/Representing: **Chris KcKinny**

May Contact:

Drafter: **phurley**

Subject: **Courts - courts/judges/commsrs**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Seidel@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Disqualification of a judge or a justice

Instructions:

Per attached e mails, 1/10 and 1/11. After a t/c with Chris, decided to pursue this as a recusal issue. Require recusal if counsel has had a contingency fee agreement with any counsel involved in case.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkuesel 01/11/2012			_____			
/1	phurley 01/12/2012	mduchek 01/12/2012	jmurphy 01/12/2012	_____	sbasford 01/12/2012		

FE Sent For:

<END>

2011 DRAFTING REQUEST

Bill

Received: 01/11/2012

Received By: phurley

Wanted: As time permits

Companion to LRB:

For: Donna Seidel (608) 266-0654

By/Representing: Chris McKinny

May Contact:

Drafter: phurley

Subject: Courts - courts/judges/commsrs

Addl. Drafters:

Extra Copies:

Submit via email: YES

Requester's email: Rep.Seidel@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given



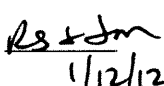
Topic:

Disqualification of a judge or a justice

Instructions:

Per attached e mails, 1/10 and 1/11. After a t/c with Chris, decided to pursue this as a recusal issue. Require recusal if counsel has had a contingency fee agreement with any counsel involved in case.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
1/?	jkuesel 01/11/2012 phurley	 1/12/12	 1/12/12	 1/12/12			

FE Sent For:

<END>

Hurley, Peggy

From: McKinny, Chris
Sent: Wednesday, January 11, 2012 1:18 PM
To: Kuesel, Jeffery
Cc: Hurley, Peggy
Subject: RE: Drafting request for Rep. Seidel

Hi Jeff and Peggy,

Thank you both for your work on this, I appreciate it. Would it work to say that public officials cannot enter into fee contingency agreements not commonly made available to the general public?

Chris

From: Kuesel, Jeffery
Sent: Wednesday, January 11, 2012 11:22 AM
To: McKinny, Chris
Cc: Hurley, Peggy
Subject: FW: Drafting request for Rep. Seidel

Chris,

Peggy Hurley and I have discussed this request and I will end up doing most of it. There are a number of current provisions of the statutory code of ethics for state public officials that could affect an official's ability to enter into an unethical fee arrangement, specifically ss. 19.45 (2), (3), (5), and (7) and 19.46 (1), stats. I also see a potential issue in delegating to GAB the power to approve attorney's fee arrangements without telling them what standard they should apply in doing so. In addition, there is the possibility that this proposal would impact the authority of the supreme court to regulate the practice of law, specifically by regulating attorneys' fees in certain cases. Peggy does not think she needs to amend any statutes to accomplish your intent at this point but she will add a sentence to the analysis and perhaps write you a drafter's note regarding the issue.

If you have any further guidance regarding the standard that GAB should use in approving contingency fee arrangements, please let me know.

I will try to see that this draft is in the cue for next week.

Jeffery T. Kuesel
Wisconsin Legislative Reference Bureau
P.O. Box 2037
Madison, WI 53701-2037
(608) 266-6778
Jeffery.Kuesel@legis.wisconsin.gov

From: Champagne, Rick
Sent: Tuesday, January 10, 2012 3:10 PM
To: Kuesel, Jeffery
Cc: Hurley, Peggy; McKinny, Chris
Subject: Drafting request for Rep. Seidel

Jeff:

Chris McKinny in Rep. Seidel's office called in a drafting request that he would like to introduce next week. The request is to prohibit state elected officials from entering into contingency fee arrangements for legal representation without the approval of GAB. These would be arrangements that relate both to actions undertaken in the performance of their official duties, as well as all other actions -- even those in private life. The concern is to make sure that there is no ethical issue in having such contingency fee arrangements.

Peggy, I cc'd you because I'm not sure if GAB can regulate judges or justices actions or if the courts or Judicial

Commission are the only entities that can do that.

Thanks for your help.

Rick



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-3794/1

PJH
med

2011 BILL

note
4/13/12

Gen

AN ACT *Gen*; relating to: disqualifying a judge or justice.

Analysis by the Legislative Reference Bureau

Under current law, a judge or justice is required to disqualify himself or herself from presiding over or deciding any legal action under certain circumstances that render the judge or justice incapable of acting in an impartial manner or that make it appear that the judge or justice cannot act in an impartial manner.

This bill requires a judge or justice to disqualify himself or herself from presiding over or deciding any legal action if any legal counsel that represents a party in the action had ever represented the judge or justice under a contingency fee arrangement.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 757.19 (2) (fm) of the statutes is created to read:

757.19 (2) (fm) When any counsel to any party to the action represented the judge under a contingency fee arrangement.

(END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

3794/1dn
LRB-3794/1dn
PJH:med:rs
T
stays

January 11, 2012

New Date

George,

Chris

Please review this draft to ensure that it is consistent with your intent. As we discussed, to the extent this bill requires a judge or justice to recuse himself under certain circumstances, it may run afoul of the separation of powers doctrine, which confers upon the judicial branch the exclusive right to regulate judicial decision-making. Similarly, the judiciary retains the right to regulate attorneys and the practice of law; the provision barring lawyers from appearing before a court under certain circumstances may overstep legislative bounds.

Please let me know if you would like to discuss these issues further, or if you would like any changes to your bill.

Peggy Hurley
Legislative Attorney
Phone: (608) 266-8906
E-mail: peggy.hurley@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3794/1dn

PJH:med:jm

January 12, 2012

Chris,

Please review this draft to ensure that it is consistent with your intent. As we discussed, to the extent this bill requires a judge or justice to recuse himself under certain circumstances, it may run afoul of the separation of powers doctrine, which confers upon the judicial branch the exclusive right to regulate judicial decision-making.

Please let me know if you would like to discuss these issues further, or if you would like any changes to your bill.

Peggy Hurley
Legislative Attorney
Phone: (608) 266-8906
E-mail: peggy.hurley@legis.wisconsin.gov

Godwin, Gigi

From: Whittlef, Holly
Sent: Thursday, January 12, 2012 4:11 PM
To: LRB.Legal
Subject: Draft Review: LRB 11-3794/1 Topic: Disqualification of a judge or a justice

Please Jacket LRB 11-3794/1 for the ASSEMBLY.